



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	ATTY'S DKT: KIMCHI2A
KIMCHI et al.)	
)	
)	Conf. No. 1652
Appln. No.: 09/719,748)	
)	Washington, D.C.
Filed: 27 February 2001)	
)	March 12, 2004
For: DAP-KINASE RELATED PROTEIN))	
)	Attn: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed March 1, 2004, which **erroneously** states that the application is abandoned because of applicant's failure to file a reply within the time period established by the Office Action mailed June 2, 2003.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated June 2,

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

March 12, 2004

2003, by timely filing a Reply on October 2, 2003, along with a petition for one month's extension of time.

As evidence that such Reply was timely and properly filed on October 2, 2003, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on October 2, 2003.

As it appears that the Reply filed on October 2, 2003, has been lost by and in the PTO, attached hereto is a duplicate copy thereof (entitled "Amendment") dated October 2, 2003, and related papers. **However, as the one month's extension fee has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.**

REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Office Action mailed on June 2, 2003, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

In re Appln. No. 09/719,748

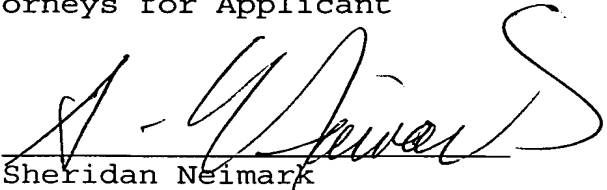
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It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By


Sheridan Neimark
Registration No. 20,520

SN:edg

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

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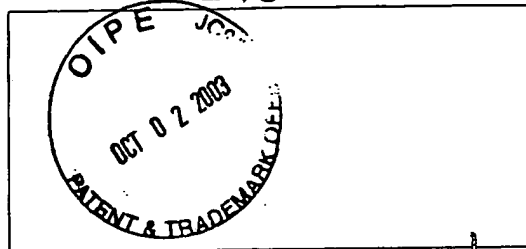


APPLICATION/PATENT NO: 09/719,748
DOCKET NO: KIMCHI-2A

CONF. NO.: 4171
CLIENT CODE: YEDA

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- ☒ FEES \$ 55.00
☒ PTO FORM 2038 ☐ (CH. # _____)
☒ EXTENSION OF TIME (1 MONTHS)
☒ TRANSMITTAL LETTER
☐ MISSING PARTS RESPONSE WITH DECL
☒ ~~AMENDMENT~~ RESPONSE (circle one)
☐ PRELIMINARY ☐ SUPPLEMENTAL
☐ APPLICATION DATA SHEET
☐ RESTRICTION/ELECTION REPLY
☐ SEQUENCE LISTING ☐ WITH DISK
☐ RCE / CPA TRANSMITTAL (circle one)
☐ NOTICE OF APPEAL
☐ APPEAL BRIEF (TRIPPLICATE)
☐ REPLY BRIEF (TRIPPLICATE)
☐ OTHER _____



- ☐ ASSIGNMENT
☐ INFORMATION DISCLOSURE STATEMENT
☐ FORM SB08A & _____ PATENTS/PUBS
☐ PRIORITY DOCUMENT(S) NO. _____
☐ DECLARATION UNDER § _____
☐ LETTER TO DRAFTSMAN
☐ _____ SHEETS OF DRAWINGS
☐ ISSUE FEE TRANSMITTAL FORM
☐ MAINTENANCE FEE LETTER